

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

JACK E. HAMILTON and)
MONICA HAMILTON,)
Plaintiffs,)
vs.)
AHMED AL GBURI,)
BASHAR Z. SAEED,)
ORD TRANS, INC.,)
ORD TRANSPORTATION, INC., and)
TEMPO CARRIER, INC.,)
Defendants.)

Civil No. 5:20-cv-5080

COMPLAINT

Plaintiffs, by and through their undersigned counsel, and for their complaint, state and allege as follows:

PARTIES

1. Plaintiffs Jack E. Hamilton and Monica Hamilton are husband and wife and residents of Fort Collins, Colorado.
 2. Defendant Ahmed Al Gburi is a resident of 7221 Lamb Road, Apt. 1203, in San Antonio, Texas.
 3. Defendant Bashar Z. Saeed is a resident of 6400 Wurzbach Road Apartment 5-504, San Antonio, Texas.
 4. Defendant ORD Trans, Inc. is an Illinois corporation and is an active carrier and upon information and belief, is a trucking company operating under US DOT #2335231 and having its principal place of business at 2515 Pan Am Boulevard, Elk Grove Village, Illinois.
 5. Defendant ORD Transportation, Inc., is an Illinois corporation and is an active carrier and upon information and belief, is a cargo and freight company operating under US DOT 2474459 and has its principal place of business at 3331 Emerson Street, Franklin Park, IL 60131.
 6. Defendant Tempo Carrier, Inc. is an Illinois corporation and is an active carrier and upon information and belief, is in the business of hauling general freight operating under US DOT #02356913 and has its principal place of business at 830 East Higgins Road, Suite 111t, Schaumburg, Illinois.

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JURISDICTION

7. This Court has diversity jurisdiction pursuant to 28 U.S.C 1332 based upon the parties' citizenship and the fact that the amount in controversy exceeds \$75,000.

VENUE

8. Venue is properly laid within the District of South Dakota pursuant to 28 U.S.C 1331(b) because at all times material hereto the event causing Plaintiffs' injuries occurred within the District of South Dakota.

FACTS

9. On July 11, 2019, Plaintiff Jack E. Hamilton was driving a rented pickup in an easterly direction on U.S. Highway 18 in Fall River County, South Dakota, and was stopped in a construction zone at a stop sign held by a flagger.

10. Plaintiff Monica Hamilton was a passenger in the pickup.

11. Defendant Ahmed Al Gburi was driving a 2012 Volvo semi-truck with trailer in an easterly direction on U.S. Highway 18 in Fall River County, South Dakota.

12. Defendant Bashar Z. Saeed was the owner of the 2012 Volvo semi-truck, a commercial motor vehicle.

13. Upon information and belief, the semi-truck and trailer were being operated under agreements with Defendants Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc.

FIRST CAUSE OF ACTION-NEGLIGENCE

14. Despite the existence of multiple signs warning of a construction zone, the presence of a flagger displaying a stop sign, and traffic which had been stopped on Highway 18, Defendant Al Gburi negligently failed to stop the semi-truck he was operating causing a rear end collision with the pickup occupied by the plaintiffs.

15. As a consequence, Defendant Al Gburi was cited for Careless Driving pursuant to SDCL § 32-24-8.

16. Defendant Al Gburi pled guilty to the Careless Driving citation on August 12, 2019.

17. Defendant Al Gburi's negligence was a legal cause of bodily injury and damage to both Plaintiffs Jack E. Hamilton and Monica Hamilton.

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18. Plaintiff Monica Hamilton suffered bodily injuries and permanent harm and detriment, including, but not limited to:

- a. injuries to her left hip, back and neck;
- b. physical pain and discomfort, headaches, and mental anguish;
- c. lost income, disability and loss of earning capacity;
- d. loss of enjoyment of life;
- e. permanent physical impairment and disfigurement;
- f. medical expenses, both past and future including physical therapy, injections, chiropractic treatment, massage therapy, doctors, nurses, therapists, laboratory tests, medical equipment, and other similar expenses for examination, treatment, therapy and related prescriptions and modalities of care and support to include a future hip surgery; and,
- g. loss of consortium.

19. Plaintiff Jack E. Hamilton suffered bodily injuries, permanent harm and detriment, including, but not limited to:

- a. injuries to his left arm, left hip, back and neck;
- b. physical pain and discomfort and mental anguish;
- c. lost income, disability and loss of earning capacity;
- d. loss of enjoyment of life;
- e. permanent physical impairment and disfigurement;
- f. medical expenses, both past and future medical expenses for necessary medical treatment and care to include injections, physical therapy, chiropractic treatment, doctors, nurses, therapists, laboratory tests, medical equipment, and other similar expenses for examination, treatment, therapy and related prescriptions and modalities of care and support; and,
- g. loss of consortium.

SECOND CAUSE OF ACTION-NEGLIGENCE ENTRUSTMENT

20. Plaintiffs restate the allegations set forth in paragraphs 1-19 above.

21. Defendants Bashar Z. Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. permitted Defendant Al Gburi, an inexperienced and incompetent truck driver, to operate the 2012 Volvo semi-truck and trailer on and before July 11, 2019.

22. Defendants Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. knew or should have known that Defendant Gburi was likely to operate the truck in a manner so as to create an unreasonable risk of harm to others.

23. Defendants Saeed, Tempo Carrier, Inc., ORD Trans, Inc., and/or ORD Transportation, Inc. had the power to prohibit Gburi from driving the truck, but negligently entrusted the use of the

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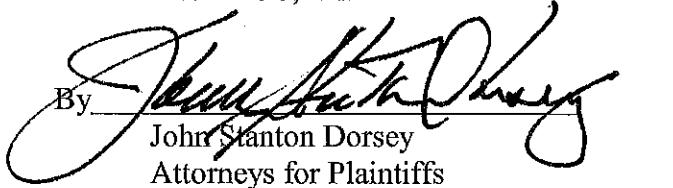
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commercial vehicle to Gburi and said negligence was a legal cause of injuries and damages to the Plaintiffs above-described.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount to be determined by a duly empaneled jury which will fairly and reasonably compensate them for all losses and damages sustained by each of them, for their costs and further relief as deemed appropriate by the Court to include pre-judgment interest.

Dated this 28th day of December, 2020.

WHITING HAGG HAGG
DORSEY & HAGG, LLP

By 
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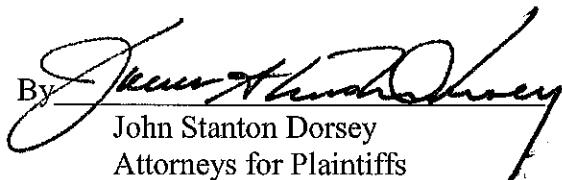
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DEMAND FOR TRIAL BY JURY

Plaintiffs respectfully request trial by jury on all issues so triable and demand same pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment to the Constitution.

Dated this 28th day of December, 2020.

WHITING HAGG HAGG
DORSEY & HAGG, LLP

By 
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JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jack E. Hamilton and Monica Hamilton

(b) County of Residence of First Listed Plaintiff Larimer, Colorado
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

John Stanton Dorsey, Whiting Hagg Hagg Dorsey & Hagg
LLP, P.O. Box 8008, Rapid City, SD 57709-8008,
605-348-1125**DEFENDANTS**Ahmed Al Gburi; Bashar Z. Saeed; ORD Trans, Inc.; ORD
Transportation, Inc.; and Tempo Carrier, Inc.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	375 False Claims Act
<input type="checkbox"/> 120 Marine	310 Airplane	365 Personal Injury - Product Liability	422 Appeal 28 USC 158	376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	315 Airplane Product Liability	367 Health Care/ Pharmaceutical Personal Injury Product Liability	423 Withdrawal 28 USC 157	400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	320 Assault, Libel & Slander	368 Asbestos Personal Injury Product Liability	LABOR	410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	330 Federal Employers' Liability	370 Other Fraud	710 Fair Labor Standards Act	430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	340 Marine	371 Truth in Lending	720 Labor/Management Relations	450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	345 Marine Product Liability	380 Other Personal Property Damage	740 Railway Labor Act	460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	350 Motor Vehicle	385 Property Damage Product Liability	751 Family and Medical Leave Act	470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	355 Motor Vehicle Product Liability		790 Other Labor Litigation	480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	360 Other Personal Injury		791 Employee Retirement Income Security Act	485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	362 Personal Injury - Medical Malpractice		SOCIAL SECURITY	490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			861 HIA (1395ff)	850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	862 Black Lung (923)	890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	440 Other Civil Rights	Habeas Corpus:	863 DIWC/DIWW (405(g))	891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	441 Voting	463 Alien Detainee	864 SSID Title XVI	893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	442 Employment	510 Motions to Vacate Sentence	865 RSI (405(g))	895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	443 Housing/ Accommodations	530 General	FEDERAL TAX SUITS	896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	445 Amer. w/Disabilities Employment	535 Death Penalty	870 Taxes (U.S. Plaintiff or Defendant)	899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	446 Amer. w/Disabilities Other	Other:	871 IRS—Third Party 26 USC 7609	950 Constitutionality of State Statutes
	448 Education	540 Mandamus & Other		
		550 Civil Rights		
		555 Prison Condition		
		560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|---|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332**VI. CAUSE OF ACTION**Brief description of cause:
Plaintiff resides in Colorado, two Defendants reside in Texas, Corporations are based in Illinois, action arose in South Dakota**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

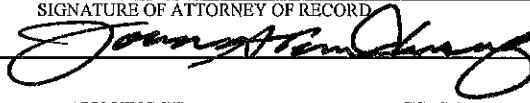
JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

12/28/2020



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE